

PATENT**REMARKS**

Claims 1-22 are currently pending in this application. Claims 1, 2, 4, 5, 7, 9, 12, 15-17, 21 and 22 have been amended. No new matter has been added by these amendments. Applicant has carefully reviewed the Office Action and respectfully requests reconsideration of the claims in view of the remarks presented below.

Claim Rejections Under 35 U.S.C. §102

Claims 1-3, 8, 10-11, 15-17 and 19-22 were rejected under 35 U.S.C. §102(a) as being anticipated by U.S. Patent No. 6,609,023 (Fischell et al.).

As recited in amended independent claim 1, Applicant's invention relates to an implantable device that detects and discriminates between ischemia and myocardial infarction of a patient's heart. The device includes a plurality of electrodes that provide a plurality of cardiac activity sensing electrode configurations; a sensing circuit that provides a plurality of electrograms in response to cardiac activity sensed by the plurality of electrode configurations; and a discriminator that combines corresponding ST segments from the plurality of electrograms to determine an ST segment value and compares the ST segment value to a standard value to detect and discriminate between ischemia and myocardial infarction.

As indicated in the "Response to Arguments" section of the Office Action, Fischell et al. appears to disclose a multi-channel amplifier that amplifies electrogram signals received from a plurality of electrode configurations, a D/A converter that digitizes electrogram signals received from the amplifier and a FIFO memory that stores digitized electrogram signals received from the D/A converter. See column 15, lines 37-46. While the cited portion of Fischell et al. relates to the collection and storage of electrograms, it is significant to note that, with respect to cardiac-event-detection processing, Fischell et al. teaches that the electrograms stored in the FIFO memory are extracted from the FIFO memory on a FIFO, electrogram-by-electrogram (singular) basis. Attention is directed to column 17, lines 43-47, wherein it is stated that "[a]fter being captured, in step 454, the Y seconds of electrogram data (singular) representing

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the most recent electrogram segment (**singular**) is transferred to the recent electrogram memory 472 of FIG. 4. At this time the processing and analysis of the data (**singular**) begins." (Bold text added for emphasis.) Thus, Applicant submits that Fischell et al. does not teach or suggest a discriminator that combines corresponding ST segments from a plurality of electrograms – wherein the plurality of electrograms correspond to cardiac activity sensed by a plurality of electrode configurations – to determine an ST segment value, and compares the ST segment value to a standard value to detect and discriminate between ischemia and myocardial infarction.

Likewise, regarding independent claims 15 and 17, Applicant submits that Fischell et al. does not teach or suggest combining corresponding phases from a plurality of cardiac activity signals sensed by a plurality of electrode configurations, to obtain a phase value that is compared to a standard value to discriminate between ischemia and myocardial infarction.

In view of the foregoing, Applicant believes Fischell et al. fails to teach the invention claimed in independent claims 1, 15 and 17. Accordingly, Applicant requests reconsideration of the §102 rejections of these claims and their respective dependent claims.

Claim Rejections Under 35 U.S.C. §103

Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Fischell et al. in view of U.S. Patent No. 5,273,049 (Steinhaus et al.). Claims 13-14 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Fischell et al. in view of U.S. Patent Application Publication U.S. 2003/0023175.

In view of the foregoing analysis of amended independent claims 1 and 17 in view of Fischell et al., Applicant believes that the rejections under §103 are rendered moot as dependent claims 4, 13-14 and 18 depend from allowable independent claims.

PATENT**Allowable Subject Matter**

Claims 5-7, 9 and 12 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims. Claims 5, 7, 9 and 12 have been rewritten in independent form and are believed to be in condition for allowance.

CONCLUSION

Applicant has made an earnest and bona fide effort to clarify the issues before the Examiner and to place this case in condition for allowance. Therefore, reconsideration and allowance of Applicant's claims 1-22 are believed to be in order.

Respectfully submitted,

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Date

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